

## Chapter 89.12 RCW

### RECLAMATION AND IRRIGATION DISTRICTS IN RECLAMATION AREAS

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#### NOTES:

Establishment of county road system: RCW **36.81.140**.

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#### **89.12.010** Preamble.

It is the policy of the state of Washington in connection with lands within the scope of this chapter which may be irrigated through works of federal reclamation projects, to assist the United States in the reduction or prevention of speculation in such lands and in limiting the size of the holdings thereof

entitled to receive water by means of the works of such projects, and otherwise to cooperate with the United States with respect thereto.

[ 1957 c 165 § 1; 1943 c 275 § 1; Rem. Supp. 1943 § 7525-20.]

## NOTES:

**Severability—1943 c 275:** "Each section and provision of this act shall be considered separable from every other section and provision of the act, and should any section or provision thereof be held unconstitutional, the unconstitutionality of such section or provision shall not affect or impair the validity of the remainder of the act, but in that event the unconstitutional section or provision shall be eliminated and the remainder of the act remain in full force and effect." [ 1943 c 275 § 16.]

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### 89.12.020

#### Definitions.

As used in this chapter,

The term "secretary" shall mean the secretary of the interior of the United States, or his or her duly authorized representative.

The term "appraised value" shall mean the value of lands within the scope of this chapter appraised or reappraised by the secretary without reference to or increment on account of the irrigation works built or to be built by the United States.

The term "district" shall mean an irrigation or reclamation district governed by this chapter as provided in RCW 89.12.030.

The term "federal reclamation laws" shall mean the act of congress of June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplemental thereto including the act of congress entitled "An Act to amend the Act approved May 27, 1937 (Ch. 269, 50 Stat. 208), by providing substitute and additional authority for the prevention of speculation in lands of the Columbia Basin project, and substitute an additional authority related to the settlement and development of the project, and for other purposes, enacted and approved in the Seventy-Eighth Session."

The term "lands" shall mean, unless otherwise indicated, lands within the boundaries of a district contracting or intending to contract with the United States under the terms of this chapter.

The term "owner," "landowner," and "any one landowner" shall mean any person, corporation, joint stock association or family owning lands that are within the scope of this chapter.

The term "family" shall mean a group consisting of either or both husband and wife, together with their children under eighteen years of age, or all of such children if both parents are dead, the term "their children" including the issue and lawfully adopted children of either or both husband and wife. Within the meaning of this chapter, lands shall be deemed to be held by a family if held as separate property of husband or wife, or if held as a part or all of their community property, or if they are the property of any or all of their children under eighteen years of age.

[ 2013 c 23 § 552; 1943 c 275 § 3; Rem. Supp. 1943 § 7525-22.]

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### 89.12.030

#### Applicability and purpose of chapter.

The provisions of this chapter shall be applicable to any irrigation or reclamation district organized under the laws of this state contracting or intending to contract with the United States under the federal reclamation laws with respect to a water supply for irrigation from the Columbia Basin project or from any project or division of a project hereafter undertaken in this state by the United States under those laws, and shall govern as to any lands which are now or may hereafter be included in any such district and as to the relationship between any such district and any such lands. The prospect of the construction of the irrigation features of the Columbia Basin project and of other works under the federal reclamation laws for the irrigation of lands in this state requires the granting of authority to irrigation and reclamation districts and to state and county officers to assist the United States, in accordance with the policy of this enactment, in meeting the problems of land speculation and in limiting the size of holdings of lands that may be benefited by such works, and otherwise to cooperate with the United States in connection with the irrigation of lands in this state. The provisions of this chapter, however, are supplemental to other provisions of the law of the state, not inconsistent herewith, which pertain to such districts.

[ 1943 c 275 § 2; Rem. Supp. 1949 § 7525-21.]

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### **89.12.040**

#### **Units and legal subdivisions authorized—Size—Plats—Excess land.**

In connection with a district contracting or intending to contract with the United States under this chapter, the secretary for the purpose of administering the federal reclamation laws and of providing for the delivery of water thereto, the method thereof, and the turnout therefor may segregate such lands, or any part thereof, into units and/or legal subdivisions, having in mind the character of soil, topography, method or methods of irrigation best suited therefor, location with respect to the irrigation system, type of irrigation system, and such other relevant factors as enter into the determination of the area and boundaries thereof and the method or methods of irrigating the same. Plats or revisions thereof showing the units and/or the legal subdivisions and the exclusive method or methods of irrigating such units and/or legal subdivisions or portions thereof when approved, may be filed by the United States for record with the auditor of the county in which the land is located. Lands in excess of the acreage in the amount specified by applicable federal law as not being excess lands held by any one landowner shall be deemed excess land.

[ 1970 ex.s. c 71 § 1; 1963 c 3 § 1; 1957 c 165 § 2; 1943 c 275 § 4; Rem. Supp. 1943 § 7525-23.]

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### **89.12.050**

#### **Contracts with United States—Permissible provisions.**

(1) A district may enter into repayment and other contracts with the United States under the terms of the federal reclamation laws in matters relating to federal reclamation projects, and may with respect to lands within its boundaries include in the contract, among others, an agreement that:

(a) The district will not deliver water by means of the project works provided by the United States to or for excess lands not eligible therefor under applicable federal law.

(b) As a condition to receiving water by means of the project works, each excess landowner in the district, unless his or her excess lands are otherwise eligible to receive water under applicable federal law, shall be required to execute a recordable contract covering all of his or her excess lands within the district.

(c) All excess lands within the district not eligible to receive water by means of the project works shall be subject to assessment in the same manner and to the same extent as lands eligible to receive

water, subject to such provisions as the secretary may prescribe for postponement in payment of all or part of the assessment but not beyond a date five years from the time water would have become available for such lands had they been eligible therefor.

(d) The secretary is authorized to amend any existing contract, deed, or other document to conform to the provisions of applicable federal law as it now exists. Any such amendment may be filed for record under RCW **89.12.080**.

(2) A district may enter into a contract with the United States for the transfer of operations and maintenance of the works of a federal reclamation project, but the contract does not impute to the district negligence for design or construction defects or deficiencies of the transferred works. Any contract, covenant, promise, agreement, or understanding purporting to indemnify against liability for damages caused by or resulting from the negligent acts or omissions of the United States, its employees, or agents is not enforceable unless expressly authorized by state law.

[ **2013 c 177 § 13**; **2013 c 23 § 553**; **2009 c 145 § 3**; **1963 c 3 § 2**; **1957 c 165 § 3**; **1951 c 200 § 1**; **1943 c 275 § 5**; Rem. Supp. 1943 § 7525-24.]

## NOTES:

**Reviser's note:** This section was amended by 2013 c 23 § 553 and by 2013 c 177 § 13, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW **1.12.025(2)**. For rule of construction, see RCW **1.12.025(1)**.

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### 89.12.060

#### **Covenants running with the land—Contract provisions to govern.**

Any or all of the provisions which may be required to be included in recordable contracts may be made covenants running with any tract of land covered by the contract by expressly so providing therein. Recordable contracts expressly providing that any or all of such provisions shall be covenants running with the land covered thereby shall not be destroyed or extinguished by any tax or assessment foreclosure or deed issued pursuant thereto.

Such of the limitations and provisions of RCW **89.12.050** as are included in the repayment contract between the district and the United States, shall govern all the lands within the district unless otherwise provided in such contract and shall govern notwithstanding any other provisions of the laws of this state.

[ **1963 c 3 § 3**; **1953 c 148 § 1**; **1943 c 275 § 6**; Rem. Supp. 1943 § 7525-25.]

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### 89.12.071

#### **Fraudulent and unlawful conveyances—Preservation of rights acquired prior to repeal of RCW 89.12.070.**

The rights of any vendee or grantee as defined in section 7(b), chapter 275, Laws of 1943 as amended by section 2(b), chapter 200, Laws of 1951 and in RCW **89.12.070(2)** are hereby preserved as to any transactions that were consummated by contract or deed prior to the repeal of said sections by this chapter.

### **89.12.080**

#### **Instruments may be filed—Filing imparts notice.**

There may be filed for record in the office of the county auditor in the county in which the land lies any of the following: (1) Copies of any plat of established farm units approved by the secretary as provided in RCW **89.12.040**, when authenticated in the manner authorized by law; (2) copies of any instrument, action, determination, rule or regulation of the secretary made in connection with the provisions of RCW **89.12.050** or otherwise under the federal reclamation laws and which is or may be determinative of title to lands or interest in lands, when authenticated in the manner authorized by law; and (3) any contract or instrument required to be executed by an owner, land purchaser or other person in connection with provisions incorporated in repayment contracts between a district and the United States as authorized by RCW **89.12.050**. Such filing shall impart legal notice to the public of the matters and things set out therein.

[ 1943 c 275 § 8; Rem. Supp. 1943 § 7525-27.]

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### **89.12.090**

#### **State lands in district—State consent to assessment, conditions.**

Whenever a district to which this chapter applies is organized or in process of organization, the state of Washington, by and through its proper officials, is authorized and directed to have any state lands within the exterior boundaries of such district included as a part of the lands of such district. The state hereby consents to the assessment by the district of such state lands so included in any such irrigation district, and to the enforcement of the payment of such assessments in like manner and to the same extent as applicable to private lands in such districts, except that the payment of such assessment against such state lands shall not be enforced by transfer of title, by tax sale, tax foreclosure or otherwise, until the state has sold or transferred such lands to a private party.

[ 1943 c 275 § 9; Rem. Supp. 1943 § 7525-28.]

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### **89.12.100**

#### **State lands—Terms and conditions of sale.**

If state lands within a district have been segregated into farm units and the appraised value thereof established, the state shall recognize and accept the appraisal as determining the market value of such lands, and shall offer the state lands for sale for cash on the following terms and conditions:

(1) Sales shall be made only at the appraised value; (2) only the number of farm units or acreage specified by applicable federal law as not being excess lands shall be sold to any person or family; (3) applicants for the purchase of a farm unit shall be selected, as nearly as practicable, in accordance with the provisions of subsection (C) of section 4 of the act of congress of December 5, 1924 (43 Stat. 702); and (4) each applicant shall be required to execute a recordable contract within six months from the date the state's conveyance or contract to convey is made, whichever is the earlier, if such a contract is required as a condition to the delivery of water under the terms of the district's repayment contract with

the United States; except as the carrying out of any such terms or conditions as to particular state lands may be precluded by provisions of the state Constitution.

The state shall cooperate with the secretary in carrying out the purposes of this chapter and in connection therewith, may execute recordable contracts covering any state lands and such other agreements as are necessary in connection with the administration of this chapter.

[ 1957 c 165 § 4; 1951 c 200 § 3; 1943 c 275 § 10; Rem. Supp. 1943 § 7525-29.]

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### **89.12.110**

#### **County lands—Contracts with United States.**

In the case of any county owned land within any district has been segregated into farm units as provided in RCW **89.12.040** and the appraised value thereof established, the board of county commissioners of the county shall have authority at its option of entering into a contract with the United States to bring any of such county lands as the county board shall determine under the provisions of the recordable contracts provided for in RCW **89.12.040**, whenever such contracts are required as a condition to the delivery of water under the terms of the contract between the district and the United States, upon such terms as shall be agreed upon between the county and the United States: PROVIDED, That such contract shall not obligate the county to pay any district assessments levied against such lands except such, if any, as the board of county commissioners of said county shall elect to pay: PROVIDED FURTHER, That nothing herein contained shall be construed to deprive the district of the right to assess such lands, if otherwise assessable and to enforce the collection of the same in the manner provided by law.

[ 1943 c 275 § 11; Rem. Supp. 1943 § 7525-30.]

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### **89.12.120**

#### **Acceptance of federal act—Assessment and taxation authorized.**

The provisions and limitations of subsection 5(b) and 5(c) of the act of congress, as above entitled in RCW **89.12.020**, concerning assessment and taxation of lands within the Columbia Basin project while legal title remains vested in the United States are hereby accepted; and assessment and taxation by the state, political subdivisions thereof, and districts are hereby authorized to be made in accordance with such provisions and limitations.

[ 1943 c 275 § 14; Rem. Supp. 1943 § 7525-33.]

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### **89.12.131**

#### **Adoption of Columbia Basin project act—Revocation of state's consent.**

Section 15, chapter 275, Laws of 1943 as amended by section 4, chapter 200, Laws of 1951 and RCW **89.12.130** are each repealed and any adoption, enactment, or consent of this state to the provisions of the federal act, as amended, cited therein are hereby revoked.

[ 1963 c 3 § 5.]

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**89.12.140****Subdivision and sale of state lands in reclamation project.**

The commissioner of public lands of the state of Washington is authorized to cooperate with the secretary of the interior of the United States with a view to facilitate the execution of plans approved by the secretary of the interior for subdivision and disposal of lands under federal reclamation projects constructed or to be constructed under the provisions of the act of congress of June 17, 1902, (32 Stat., 388) and acts amendatory thereof or supplementary thereto in farm units bounded by lines considered more economical and convenient for irrigation and reclamation than the lines of legal subdivisions and for such purpose is authorized to cause to be prepared and filed a plat or plats of any state lands in any such federal reclamation project showing said state lands subdivided into blocks, lots or farm units, with boundary lines other than those of legal subdivisions, and located with a view to greater convenience, economy or efficiency in irrigation and reclamation, and such subdivision into lots, blocks or farm units may be made in harmony with any general plan approved by the secretary of the interior for subdivision of the lands of any such federal reclamation project or any part or division of any such project into blocks, lots or farm units with boundary lines other than the boundary lines of legal subdivisions and designed for more convenient, economical or efficient reclamation and irrigation. And the commissioner of public lands is authorized to offer for sale and to sell such state lands, in the lots, blocks or farm units designated on such plat or plats instead of offering and selling the same in the legal subdivisions of the U.S. public land surveys.

[ [1927 c 246 § 1](#); RRS § 7402-280.]

**NOTES:**

**Severability—1927 c 246:** "Sections 1 and 2 of this act are each declared to be separable from the remainder of the act, and, should either of said sections be held unconstitutional or void, the remainder of the act shall nevertheless remain effective and in such event such unconstitutional section shall be eliminated without affecting the remainder of the act." [ [1927 c 246 § 3](#).]

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**89.12.150****Exchange of state and federal lands.**

From and after the date that the consent of the United States shall be given thereto by act of congress, the department of natural resources is authorized, upon request from the secretary of the interior, to cause an appraisal to be made by the board of natural resources of state lands in any division of any federal reclamation project which the secretary of the interior shall advise the department that he or she desires to have subdivided into farm units of class referred to in RCW [89.12.140](#), and also to cause to be appraised by the board of natural resources such public lands of the United States on the same project, or elsewhere in the state of Washington, as the secretary of the interior may propose to exchange for such state land, and when the secretary of the interior shall have secured from congress authority to make such exchange the department is authorized to exchange such state lands in any federal reclamation project for public lands of the United States on the same project or elsewhere in the state of Washington of approximately equal appraised valuation, and in making such exchange is

authorized to execute suitable instruments in writing conveying or relinquishing to the United States such state lands and accepting in lieu thereof such public land of approximately equal appraised valuation.

[ 2013 c 23 § 554; 1988 c 128 § 75; 1927 c 246 § 2; RRS § 7402-281.]

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## 89.12.170

### **Columbia Basin project—Authorization for agreements to allocate water— Conditions.**

The department of ecology is authorized to enter into agreements with the United States for the allocation of groundwaters that exist as a result of the Columbia Basin project. The agreements and any allocation of water pursuant to the agreements must be consistent with authorized project purposes, federal and state reclamation laws, including federal rate requirements, and provisions of United States' repayment contracts pertaining to the project. The agreements must provide that the department grant an application to beneficially use such water only if the department determines that the application will not impair existing water rights or project operations or harm the public interest. Use of water allocated pursuant to the terms of the agreements must be contingent upon issuance of licenses by the United States to approved applicants. This section is not intended to alter or affect any ownership interest or rights in groundwaters that are not allocated pursuant to the agreements. Before implementing any such agreements, the department, with the concurrence of the United States, shall adopt a rule setting forth the procedures for implementing the agreements and the priorities for processing of applications. The department is authorized to accept funds for administrative and staff expenses that it incurs in connection with entering into or implementing the agreements.

[ 2002 c 330 § 3.]

#### **NOTES:**

**Finding—2002 c 330:** "The legislature finds that delivery of Columbia Basin project water through canals and its application to land through irrigation over approximately the past fifty years has dramatically affected groundwater in the Pasco basin, located in western Franklin county, along the Columbia river and north of the city of Pasco. According to studies conducted by the United States geological survey, the volume of groundwater has increased by about five million acre feet. About eighty-five percent of this increase is the result of percolation following irrigation and seepage from the distribution system. Groundwater levels have also risen as a result of reservoirs formed behind the dams on the Columbia and Snake rivers. As a result of drainage management, the system is reported to be at equilibrium. The studies provide the information needed to determine which groundwater is a result of the project and which is naturally occurring. Potential problems associated with the raised groundwater levels include landslides and loss of arable land through ponding. Benefits include dilution of concentrations of nitrate and increase in volume of water potentially available for beneficial use over the naturally occurring volume otherwise available." [ 2002 c 330 § 1.]

**Intent—2002 c 330:** "It is the intent of the legislature to grant authority to the department of ecology to enter into agreements with the United States for allocation of groundwaters that exist as a result of the Columbia Basin project, adopt rules for implementing the agreements and establishing priorities for processing applications, and accept funds for expenses incurred, consistent with applicable state and federal law. Inasmuch as rules adopted by the department will be significant legislative rules, the legislature intends to assure that it will be able to properly carry out its responsibility to both give

direction and review the rules after their adoption by requiring periodic reports by the department." [ 2002 c 330 § 2.]

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### **89.12.180**

#### **Reports to legislature regarding activities under RCW 89.12.170.**

The department of ecology shall report annually to the standing committees of the legislature with jurisdiction over water resources regarding the activities authorized by RCW 89.12.170, beginning December 1, 2002, and ending December 1, 2007.

[ 2002 c 330 § 4.]

#### **NOTES:**

**Finding—Intent—2002 c 330:** See notes following RCW 89.12.170.

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### **89.12.190**

#### **Columbia Basin project—Findings—Source of surface water—Management of groundwater depletions.**

(1) The legislature finds that conserved water from the developed portions of the federal Columbia Basin project can provide an immediate source of surface water to offset a limited portion of groundwater depletions within the undeveloped portions of the federal project extending the availability of groundwater for domestic, municipal, industrial, and agricultural uses. The department of ecology has adopted rules establishing groundwater management subareas within the federal Columbia Basin project. A primary purpose of some of the rules was to manage groundwater depletions that are occurring as a result of the department's decision to allow continued deep well agricultural irrigation in anticipation that development of the federal Columbia Basin project would continue at its historic pace and that project water would replace groundwater and recharge the depleted aquifer.

(2) The legislature also finds that recent studies have documented water conservation in areas served by project irrigation districts as a result of distribution system lining and piping and use of more efficient conveyance system technology.

[ 2004 c 195 § 1.]

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### **89.12.200**

#### **Columbia Basin project—Intent—Allocation of conserved waters to deep well irrigated lands.**

It is the intent of the legislature that the department of ecology enter into agreements with the United States and Columbia Basin project irrigation districts regarding the allocation of water conserved from within areas currently served by project waters to deep well irrigated lands within the federal Columbia Basin project and for other authorized project beneficial uses. The department may provide the

irrigation districts data identifying areas with the most serious groundwater depletions. The irrigation districts shall consider and may rely on the department's data and recommendations in making allocation decisions to offset groundwater withdrawals consistent with the operational constraints of the distribution system.

[ 2004 c 195 § 2.]

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## **89.12.900**

### **Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.**

For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships.

[ 2009 c 521 § 198.]